IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 382 OF 2003

The State of Maharashtra .... Appellant
Vs.
Ananda Hari Kadam and 2 others .... Respondents

Mr. Y.S. Shinde for the Appellant.
None present for the Respondents.

CORAM : J.H. BHATIA, J.
DATE : 7TH JUNE, 2007
P.C.

1) Heard Mr. Shinde, learned APP for the Appellant. None for the respondents, though served.

2) This is an appeal by the State against acquittal and leave is sought under Section 378(1) of Cr.P.C. to prefer an appeal. Perused the impugned judgment.

3) Prosecution case in brief is that deceased Shobha d/o Sakharam, P.W. 1 was married to respondent no. 1, Ananda. Respondent nos. 2 and 3 are father and mother of respondent no. 1. The marriage had taken place in the year 1998. For

about 2 years Shobha was living happily with her husband and inlaws. After that the respondents asked Shobha to fetch amount of Rs.1,00,000/- to purchase tempo trax. They also used to make other demands of ornaments etc. However, as their demand was not satisfied, respondents used to harass and ill-treat her. On 30th April 2002 Shobha consumed poison and was admitted in C.P.R. Hospital, Kolhapur. On 6/5/2002 she died because of the poison. On 8/5/2002 report was lodged by her father, P.W. 1 Sakharam making the allegation of illegal demand, harassment and cruelty. The respondents were put to trial for the offence punishable under Sections 498, 306 r/w 34 of Indian Penal Code. After hearing the prosecution evidence, learned 4th Adhoc Assistant Sessions Judge, Kolhapur acquitted the respondents for both the charges by the judgment dtd. 29/10/2002.

4) The learned Adhoc Assistant Sessions Judge noted that prosecution had proved that Shobha had committed suicide by consuming poison, however there was no reliable evidence about any demand or harassment. He noted that there is no independent witness besides the evidence of P.W. 1 Sakharam, P.W. 2 Prakash and P.W. 3, Sau Anandi who are father, brother and mother respectively of

deceased. The evidence of all three witnesses is on the same line. From their evidence, it appears that even prior to the marriage of the respondent no. 1 and Shobha, respondents were having a tempo trax and the respondent no. 1 used to drive the same. For about 2 years, Shobha lived with her husband happily and then she went to her parents place for delivery. She lived at her parents place for about 4-5 months. During that period, respondent no. 1 got addicted to consumption of liquor and also stopped working. According to witnesses, his father, respondent no. 2 sold tempo trax and asked Shobha to fetch amount of Rs.1,00,000/- for purchase of tempo trax for respondent no. 1. However, the learned trial Court noted that the tempo trax was standing in the name of Ashok, brother of respondent no. 1 since 1994. That tempo trax was never sold and even at the time of trial the said tempo trax was standing in the name of Ashok. Therefore the contention of the prosecution that the respondents demanded amount of Rs.1,00,000/- to purchase tempo trax is not corroborated. Further, the oral evidence that they had sold the tempo trax and wanted to purchase new one is also not corroborated by the documentary evidence. The trial Court noted that Shobha had consumed poison on 30/4/2002 and on the same day

her parents were informed and they had also came. She died on 6/5/2002. However, report was lodged on 8/5/2002. Thus there was delay of 8 days in lodging the report and this delay was not explained. The learned trial Court noted that mother of the deceased P.W. 3 had admitted that after the respondent no. 1 got addicted to consumption of liquor, he was not doing any work and he used to beat his wife under influence of liquor. Possibly because of this reason, deceased Shobha was fed up and she committed suicide.

5) After going through the material on record and the reasons given by the trial Court for acquittal, I find no fault in the impugned judgment. I find no substance in the appeal. Therefore, leave to file appeal is refused. Appeal stands dismissed.

(J.H. BHATIA, J.)